

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

BERNADINE T. GRIFFITH

Plaintiff,

v.

**ONEBEACON INSURANCE COMPANY,
ONEBEACON AMERICA INSURANCE
COMPANY, MICHAEL A. SISTO, and
KAREN ALLEN HOLMES**

Defendants.

C.A. No. 03-CV-12573-EFH

**DEFENDANTS' MOTION TO EXTEND DISCOVERY PERIOD
AND AMEND SCHEDULING ORDER**

NOW COME Defendants OneBeacon Insurance Company, OneBeacon America Insurance Company, Michael A. Sisto, and Karen Allen Holmes (collectively, "Defendants") respectfully request a sixty day month extension of the discovery period and the amendment of the scheduling order issued in the above-captioned matter. Specifically, and for the reasons set forth below, Defendants request extensions of the following deadlines:

<u>Event</u>	<u>Requested Deadline</u>
Fact discovery complete	May 2, 2005
Plaintiff to disclose expert witnesses	May 15, 2005
Defendants to disclose expert witnesses	July 14, 2005
Depositions of all experts complete	August 15, 2005

<u>Event</u>	<u>Requested Deadline</u>
All motions for amendments to pleadings filed	April 6, 2005
Motions under FRCP 56 filed	June 30, 2005
Oppositions to motions under FRCP 56 filed	July 21, 2005
Final pre-trial conference held and firm trial date set	September 2005

As grounds for their motion, Defendants state:

1. The parties are currently engaged in the discovery process. Defendants served Plaintiff Bernadine T. Griffith (“Plaintiff”) with interrogatories and document requests on December 3, 2004. Plaintiff did not fully respond until February 7, 2005, over one month after the response was due. Because Plaintiff never provided Defendants with an initial disclosure¹, Plaintiff’s answers to Defendants’ discovery requests were Defendants first opportunity to learn the names and addresses of persons Plaintiff believed had knowledge or information relating to this matter, and Defendants first opportunity to have access to all relevant documents. Defendants are now faced with attempting to take the deposition of four of Plaintiff’s physicians prior to the close of discovery on March 1, 2005. As could be expected, Plaintiff’s physicians are unable to schedule time for the deposition with such short notice and are only available for deposition outside of the current discovery period. To disallow Defendants the opportunity to depose Plaintiff’s physicians would unduly prejudice Defendants for an act outside of their control.

¹ Plaintiff made her initial disclosure to Defendants in a letter stating, “Ms. Griffith herein incorporates her Exhibits to the Verified Complaint and submits the same to the defendants as her initial disclosure.” A true and accurate copy of this letter is attached hereto as Exhibit A.

2. Because the matter is factually complex and involves events that began over ten years ago, fact discovery has been both tedious and time consuming. Plaintiff's delay in responding to Defendants' discovery requests has only exacerbated Defendants' difficulty in gaining access to and knowledge of the factual basis for Plaintiff's eleven count Complaint. Any prejudice that could be caused by granting Defendants additional time to complete the discovery was caused by Plaintiff's failure to abide by the rules governing the discovery process.

WHEREFORE, for the foregoing reasons, Defendants respectfully request that this Court extend the discovery deadline and amend the Scheduling Order as set forth above.

Respectfully submitted,

ONEBEACON INSURANCE CO.,
ONEBEACON AMERICA INSURANCE CO.,
MICHAEL A. SISTO, and
KAREN ALLEN HOLMES

By their attorneys

/s/ Leah M. Moore
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Dated: February 18, 2005

CERTIFICATE OF SERVICE

I, Leah M. Moore, hereby certify that on this 18th day of February 2004, I caused a true and correct copy of the foregoing to be served via first class mail upon Kathleen J. Hill, Esq., Attorney for Plaintiff, Law Office of Kathleen J. Hill, 92 State Street, Suite 700, Boston, Massachusetts 02109, being the address designated by said attorney for service of all pleadings.

/s/ Leah M. Moore
Leah M. Moore